

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



57

DATE:

MAR 28 2012

Office: VERMONT SERVICE CENTER

FILE:



IN RE:

Petitioner:

Beneficiary:



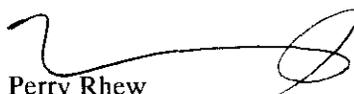
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,


Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal as improperly filed.

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a Florida corporation, states that it is engaged in the administration of a dental insurance plan. It claims to be a subsidiary of [REDACTED] located in [REDACTED]. The petitioner seeks to employ the beneficiary in the position of systems manager and indicates that she has been employed in this position in L-1A status since 2007.

The director denied the petition on May 21, 2010 concluding that the petitioner failed to establish: (1) that the beneficiary would be employed in the United States in a qualifying managerial or executive capacity; (2) that the beneficiary was employed by the foreign entity in a qualifying capacity on a full-time basis for one continuous year within the three years preceding the filing of her initial L-1 petition; and (3) that the U.S. company has a qualifying relationship with the claimed foreign parent company. Citing a number of unexplained discrepancies in the record, the director further found that the petitioner had willfully misrepresented material information and provided fraudulent documentation in order to obtain an immigration benefit for the beneficiary.

The beneficiary filed the instant appeal on June 23, 2010. On the Form I-290B, Notice of Appeal or Motion, the beneficiary notes that the petitioner previously filed two L-1A petitions on her behalf, that both petitions were approved, and that the circumstances of her employment have not changed. She further states that "there was no intention to ever mislead or misrepresent the Service or to provide fraudulent documents to obtain immigration benefits for the Beneficiary." The beneficiary requests that U.S. Citizenship and Immigration Services (USCIS) approve the petition.

USCIS regulations specifically limit the filing of an appeal to an affected party (the person or entity with legal standing) and/or to the party's attorney or representative authorized pursuant to 8 C.F.R. § 292. The meaning of *affected party* does not include the beneficiary of a visa petition. See 8 C.F.R. § 103.3(a)(1)(iii)(B). The record does not reflect that the beneficiary is an officer or authorized signatory of the petitioning company. Further, the petitioner is not named on the Form I-290B.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) provides that an appeal filed by a person or entity not entitled to file it is improperly filed and must be rejected. Accordingly, the appeal will be rejected. The decision of the director will not be disturbed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is rejected.